

3/22/95 W. & M.

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SENATE FILE 448
BY COMMITTEE ON AGRICULTURE

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to livestock, by providing for the regulation of
2 animal feeding operations, providing fees and expenditures,
3 providing a property tax credit and an appropriation for
4 livestock and poultry production facilities, and providing a
5 penalty.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 448

1 DIVISION I

2 Section 1. Section 172D.2, Code 1995, is amended to read
3 as follows:

4 172D.2 COMPLIANCE -- A DEFENSE TO NUISANCE ACTIONS.

5 ~~In any nuisance action or proceeding against a feedlot~~
6 ~~brought by or on behalf of a person whose date of ownership of~~
7 ~~realty is subsequent to the established date of operation of~~
8 ~~that feedlot, proof of compliance~~ Compliance with sections
9 172D.3 and 172D.4 shall be an absolute defense, ~~provided that~~
10 the to any nuisance action or proceeding against a person
11 relating to the operation of a feedlot, including but not
12 limited to, the care or feeding of animals, the handling or
13 transportation of animals, the treatment or disposal of manure
14 resulting from the animals, the transportation and application
15 of the animal manure, and the creation of noise, odor, dust,
16 flies, or fumes arising from the feedlot. However, the
17 conditions or circumstances alleged to constitute a nuisance
18 are subject to regulatory jurisdiction in accordance with
19 either section 172D.3 or 172D.4.

20 Sec. 2. NEW SECTION. 204.1 DEFINITIONS.

21 1. "Confinement feeding operation" means a confinement
22 feeding operation as defined in section 455B.161.

23 2. "Construction fee" means the fee referred to in section
24 204.3.

25 3. "Department" means the department of agriculture and
26 land stewardship.

27 4. "Fund" means the manure storage indemnity fund created
28 in section 204.2.

29 5. "Manure" means animal excreta or other commonly
30 associated wastes of animals, including but not limited to
31 bedding, litter, or feed losses.

32 6. "Manure storage structure" means a structure used to
33 store manure as part of a confinement feeding operation
34 required to be constructed pursuant to a permit issued by the
35 department of natural resources pursuant to section 455B.173.

1 7. "Permittee" means a person who obtains a permit for the
2 construction of a confinement feeding operation, if a manure
3 storage structure is connected to the confinement feeding
4 operation.

5 Sec. 3. NEW SECTION. 204.2 MANURE STORAGE INDEMNITY
6 FUND.

7 1. A manure storage indemnity fund is created as a
8 separate fund in the state treasury under the control of the
9 department. The general fund of the state is not liable for
10 claims presented against the fund.

11 2. The fund consists of moneys from construction fees
12 remitted by manure storage permittees referred to in section
13 204.3; delinquency penalties; sums collected on behalf of the
14 fund by the department through legal action or settlement;
15 moneys required to be repaid to the department by a county
16 pursuant to this chapter; civil penalties assessed and
17 collected by the department of natural resources pursuant to
18 section 455B.191, against persons required to obtain a permit
19 for the construction of a confinement feeding operation;
20 moneys paid as a settlement involving an enforcement action
21 for a civil penalty subject to assessment and collection by
22 the department of natural resources pursuant to section
23 455B.191; interest, property, and securities acquired through
24 the use of moneys in the fund; or moneys contributed to the
25 fund from other sources.

26 3. The moneys collected under this section and deposited
27 in the fund shall be used exclusively to indemnify a county
28 for expenses related to removing and disposing of manure from
29 a manure storage structure, and to pay the administrative
30 costs of this chapter. The moneys in the fund are
31 appropriated to and for this purpose. Moneys in the fund
32 shall not be subject to appropriation for any other purpose.

33 4. The treasurer of state shall act as custodian of the
34 fund and disburse amounts contained in the fund as directed by
35 the department. The treasurer of state is authorized to

1 invest the moneys deposited in the fund. The income from such
2 investment shall be credited to and deposited in the fund.
3 Notwithstanding section 8.33, moneys in the fund are not
4 subject to reversion to the general fund of the state. The
5 fund shall be administered by the department which shall make
6 expenditures from the fund consistent with the purposes set
7 out in this chapter. The moneys in the fund shall be
8 disbursed upon warrants drawn by the director of revenue and
9 finance pursuant to the order of the department. The fiscal
10 year of the fund begins July 1. The finances of the fund
11 shall be calculated on an accrual basis in accordance with
12 generally accepted accounting principles. The auditor of
13 state shall regularly perform audits of the fund.

14 Sec. 4. NEW SECTION. 204.3 FEES.

15 1. The department of natural resources shall deposit into
16 the fund fees collected for the issuance of permits for the
17 construction of confinement feeding operations as provided in
18 section 455B.173.

19 2. A permittee is delinquent if the permittee fails to
20 submit the full fee when due, or if upon examination, an
21 underpayment of the fee is found by the department. The
22 permittee is subject to a penalty of ten dollars or an amount
23 equal to the amount of the deficiency for each day the
24 permittee is delinquent, whichever is less.

25 3. On August 31 following the close of each fiscal year,
26 moneys which are not obligated or encumbered on June 30 of the
27 past fiscal year, less the department's estimate of the cost
28 to the fund for pending or unsettled claims, and which are in
29 excess of three hundred thousand dollars, shall be deposited
30 in the organic nutrient management fund as created in section
31 161C.5 for purposes of supporting the organic nutrient
32 management program.

33 Sec. 5. NEW SECTION. 204.4 CLAIMS AGAINST THE FUND.

34 1. A county that has acquired real estate containing a
35 manure storage structure following nonpayment of taxes

1 pursuant to section 446.19, may make a claim against the fund
2 to pay the costs of removing and disposing of the manure
3 located in a manure storage structure on the real estate.
4 Each claim shall include a bid by a qualified person, other
5 than a governmental entity, to remove and dispose of the
6 manure for a fixed amount specified in the bid.

7 2. The department shall determine if a claim is eligible
8 to be satisfied under this section, and do one of the
9 following:

10 a. Pay the fixed amount specified in the bid submitted by
11 the county upon completion of the work.

12 b. Obtain a lower fixed amount bid for the work from
13 another qualified person, other than a governmental entity,
14 and pay the fixed amount in this bid upon completion of the
15 work. The department is not required to comply with section
16 18.6 in implementing this section.

17 3. Upon a determination that the claim is eligible for
18 payment, the department shall provide for payment of one
19 hundred percent of the claim, as provided in this section, but
20 not more than one hundred fifty thousand dollars per claimant.
21 If at any time the department determines that there are
22 insufficient moneys to make payment of all claims, the
23 department shall pay claims according to the date that the
24 claims are received by the department. To the extent that a
25 claim cannot be fully satisfied, the department shall order
26 that the unpaid portion of the payment be deferred until the
27 claim can be satisfied. However, the department shall not
28 satisfy claims from moneys dedicated for the administration of
29 the fund.

30 4. In the event of payment of a claim under this section,
31 the fund is subrogated to the extent of the amount of the
32 payment to all rights, powers, privileges, and remedies of the
33 county regarding the payment amount. The county shall render
34 all necessary assistance to the department in securing the
35 rights granted in this section. A case or proceeding

1 initiated by a political subdivision which involves a claim
2 submitted to the department shall not be compromised or
3 settled without the consent of the department. A county shall
4 not be eligible to submit a claim to the department if the
5 county has compromised or settled a case or proceeding,
6 without the consent of the department.

7 5. If upon disposition of the real estate the county
8 realizes an amount which exceeds the total amount of the
9 delinquent real estate taxes, the county shall forward to the
10 fund any excess amount which is not more than the amount
11 expended by the fund.

12 6. The department of agriculture and land stewardship
13 shall adopt administrative rules pursuant to chapter 17A to
14 administer this section.

15 Sec. 6. NEW SECTION. 204.5 NO STATE OBLIGATION.

16 This chapter does not imply any guarantee or obligation on
17 the part of this state, or any of its agencies, employees, or
18 officials, either elective or appointive, with respect to any
19 agreement or undertaking to which this chapter relates.

20 Sec. 7. NEW SECTION. 331.302A LIVESTOCK CONFINEMENT
21 FEEDING OPERATIONS.

22 If the department of natural resources adopts rules
23 affecting livestock confinement feeding operations, the board
24 of supervisors in the county where the operation is located
25 may enforce the rules, pursuant to this section. The board
26 must deliver a notice to the department, stating that an
27 operation may be in violation of chapter 455B, or rules
28 adopted by the department pursuant to that chapter. The board
29 shall deliver the notice only after approval of the action by
30 resolution. The notice shall be in writing and shall state
31 the location of the operation, the name and address of the
32 owner, and an explanation of the possible violation. The
33 board may inform the department that the board reserves its
34 right to enforce the rules as provided in this section, if the
35 department fails to initiate an investigation or enforcement

1 action or continue an enforcement action which results in an
2 administrative hearing or a settlement of the case. The
3 county may begin enforcement proceedings after thirty calendar
4 days following delivery of the notice, unless the department
5 commences and maintains active enforcement of its rules. The
6 county shall not initiate or continue an enforcement action if
7 the county receives notice and results of the investigation by
8 the department that the department has conducted an
9 investigation and has determined that the operation is not in
10 violation of departmental rules. Once the county begins an
11 enforcement action, it shall be the party in interest in the
12 case and have sole authority and responsibility to carry out
13 the action. The county may refer any case to the attorney
14 general. The department of natural resources may assume the
15 enforcement action from the county. However, if the
16 department assumes the enforcement action, the department
17 shall be required to resolve the action. The county shall
18 bring the enforcement action according to the same procedures
19 used for a county infraction as provided in section 331.307.
20 However, the civil penalty may be for any amount that could be
21 assessed by the department.

22 Sec. 8. Section 455B.134, subsection 3, paragraph f,
23 subparagraph (1), unnumbered paragraph 2, Code 1995, is
24 amended to read as follows:

25 Anaerobic lagoons, constructed or expanded on or after June
26 20, 1979, but prior to the effective date of this Act, or
27 earthen waste slurry storage basins, constructed or expanded
28 on or after July 1, 1990, but prior to the effective date of
29 this Act, which are used in connection with animal feeding
30 operations containing less than six hundred twenty-five
31 thousand pounds live animal weight capacity of animal species
32 other than beef cattle or containing less than one million six
33 hundred thousand pounds live animal weight capacity of beef
34 cattle, shall be located at least one thousand two hundred
35 fifty feet from a residence not owned by the owner of the

1 feeding operation or from a public use area other than a
2 public road. Anaerobic lagoons or earthen waste slurry
3 storage basins, which are used in connection with animal
4 feeding operations containing six hundred twenty-five thousand
5 pounds or more live animal weight capacity of animal species
6 other than beef cattle or containing one million six hundred
7 thousand pounds or more live animal weight capacity of beef
8 cattle, shall be located at least one thousand eight hundred
9 seventy-five feet from a residence not owned by the owner of
10 the feeding operation or from a public use area other than a
11 public road. For the purpose of this paragraph the
12 determination of live animal weight capacity shall be based on
13 the average animal weight capacity during a production cycle
14 and the maximum animal capacity of the animal feeding
15 operation. ~~These separation distances apply to the~~
16 ~~construction of new facilities and the expansion of existing~~
17 ~~facilities.~~

18 SITING REQUIREMENTS -- NEW PART

19 Sec. 9. NEW SECTION. 455B.161 DEFINITIONS.

20 As used in this part, unless the context otherwise
21 requires:

22 1. "Anaerobic lagoon" means an impoundment used in
23 conjunction with an animal feeding operation, if the primary
24 function of the impoundment is to store and partially
25 stabilize organic wastes, the impoundment is designed to
26 receive wastes on a regular basis, and the impoundment's
27 design waste loading rates provide that the predominant
28 biological activity is anaerobic. An anaerobic lagoon does
29 not include any of the following:

30 a. A confinement feeding operation structure.

31 b. A runoff control basin which collects and stores only
32 precipitation induced runoff from an animal feeding operation
33 in which animals are confined to areas which are unroofed or
34 partially roofed and in which no crop, vegetation, or forage
35 growth or residue cover is maintained during the period in

1 which animals are confined in the operation.

2 c. An anaerobic treatment system which includes collection
3 and treatment facilities for all off gases.

4 2. "Animal" means an animal belonging to the bovine,
5 porcine, ovine, caprine, equine, or avian species.

6 3. "Animal feeding operation" means a lot, yard, corral,
7 building, or other area in which animals are confined and fed
8 and maintained for forty-five days or more in any twelve-month
9 period, and all structures used for the storage of manure from
10 animals in the animal feeding operation. Two or more animal
11 feeding operations under common ownership or management are
12 deemed to be a single animal feeding operation if they are
13 adjacent or utilize a common system for manure storage.

14 4. "Animal feeding operation structure" means an anaerobic
15 lagoon or confinement feeding operation structure.

16 5. "Animal weight capacity" means the product of
17 multiplying the maximum number of animals which the owner or
18 operator confines in an animal feeding operation at any one
19 time by the average weight during a production cycle.

20 6. "Confinement building" means a building used in
21 conjunction with a confinement feeding operation to house
22 animals.

23 7. "Confinement feeding operation" means an animal feeding
24 operation in which animals are confined to areas which are
25 totally roofed.

26 8. "Confinement feeding operation structure" means a
27 formed manure storage structure, egg washwater storage
28 structure, earthen manure storage basin, or confinement
29 building. A confinement feeding operation structure does not
30 include an anaerobic lagoon.

31 9. "Earthen manure storage basin" means an earthen cavity,
32 either covered or uncovered, which, on a regular basis,
33 receives waste discharges from a confinement feeding operation
34 if accumulated wastes from the basin are completely removed at
35 least twice each year.

1 10. "Egg washwater storage structure" means an aerobic or
2 anaerobic structure used to store the wastewater resulting
3 from the washing and in-shell packaging of eggs.

4 11. "Formed manure storage structure" means a structure,
5 either covered or uncovered, used to store manure, which has
6 walls and a floor constructed of concrete, concrete block,
7 wood, steel, or similar materials.

8 12. "Manure" means animal excreta or other commonly
9 associated wastes of animals, including, but not limited to,
10 bedding, litter, or feed losses.

11 13. "Public use area" means that portion of public land
12 where persons customarily congregate, as provided by rules
13 which shall be adopted by the department.

14 Sec. 10. NEW SECTION. 455B.162 ANIMAL FEEDING OPERATIONS
15 -- NEW CONSTRUCTION AND EXPANSION.

16 The following shall apply to animal feeding operation
17 structures constructed on or after the effective date of this
18 Act or to the expansion of structures constructed on or after
19 the effective date of this Act:

20 1. The following table represents the minimum separation
21 distance in feet required between animal feeding operation
22 structures and residences not owned by owners of the animal
23 feeding operation:

24	Minimum	Minimum
25	separation	separation
26	distance	distance
27	in feet	in feet
28	for opera-	for opera-
29	tions hav-	tions hav-
30	ing an	ing an
31	animal	animal
32	weight ca-	weight ca-
33	capacity of	capacity of
34	less than	625,000
35	625,000	or more

1	Type of structure	pounds	pounds
2	Anaerobic lagoon	1,250	1,875
3	Earthen manure		
4	storage basin	1,250	1,875
5	Uncovered formed		
6	manure storage		
7	structure	1,000	1,500
8	Covered formed		
9	manure storage		
10	structure	750	1,000
11	Confinement		
12	building	750	1,000
13	Egg washwater		
14	storage structure	750	1,000

15 2. The following table represents the minimum separation
 16 distance in feet required between animal feeding operation
 17 structures and a public use area or the corporate limits of a
 18 city:

19		Minimum	Minimum
20		separation	separation
21		distance	distance
22		in feet	in feet
23		for opera-	for opera-
24		tions hav-	tions hav-
25		ing an	ing an
26		animal	animal
27		weight ca-	weight ca-
28		capacity of	capacity of
29		less than	625,000
30		625,000	or more
31	Type of structure	pounds	pounds
32	Animal feeding		
33	operation structure	1,250	1,875

34 Sec. 11. NEW SECTION. 455B.163 DISTANCE SEPARATION
 35 REQUIREMENTS FOR ANIMAL FEEDING OPERATIONS -- EXPANSION OF

1 STRUCTURES CONSTRUCTED PRIOR TO THE EFFECTIVE DATE OF THIS
2 ACT.

3 An animal feeding operation, utilizing an animal feeding
4 operation structure which is constructed before the effective
5 date of this Act, may be expanded on or after the effective
6 date of this Act, notwithstanding section 455B.162, if all of
7 the following apply:

8 1. The portion of the animal feeding operation structure
9 which is closest to a location or object subject to the
10 distance requirement shall not be expanded closer than
11 permitted under the distance separation requirements of
12 section 455B.162.

13 2. The animal weight capacity of the animal feeding
14 operation as expanded is not more than the lesser of the
15 following:

16 a. Double its capacity on the effective date of this Act.

17 b. Six hundred twenty-five thousand pounds animal weight
18 capacity for animals other than beef cattle.

19 Sec. 12. NEW SECTION. 455B.164 DISTANCE MEASUREMENTS.

20 All distances between locations or objects provided in this
21 part shall be measured from their closest points as provided
22 by rules adopted by the department.

23 Sec. 13. NEW SECTION. 455B.165 DISTANCE SEPARATION
24 REQUIREMENTS -- EXEMPTION.

25 A separation distance requirement provided in this part
26 shall not apply to an animal feeding operation structure which
27 is constructed or expanded, if the titleholder of the land
28 benefiting from the distance separation requirement executes a
29 written waiver with the titleholder of the land where the
30 structure is located, under such terms and conditions that the
31 parties negotiate. The written waiver becomes effective only
32 upon the recording of the waiver in the office of the recorder
33 of deeds of the county in which the benefited land is located.
34 The filed waiver shall preclude enforcement by the state of
35 this part as it relates to the confinement feeding operation

1 structure.

2 Sec. 14. Section 455B.171, Code 1995, is amended by adding
3 the following new subsections:

4 NEW SUBSECTION. 1A. "Animal feeding operation" means a
5 lot, yard, corral, building, or other area in which animals
6 are confined and fed and maintained for forty-five days or
7 more in any twelve-month period, and all structures used for
8 storage of manure from animals in the animal feeding
9 operation. Two or more animal feeding operations under common
10 ownership or management are deemed to be a single animal
11 feeding operation if they are adjacent or utilize a common
12 area or system for manure disposal.

13 NEW SUBSECTION. 1B. "Confinement feeding operation" means
14 the same as defined in section 455B.161.

15 NEW SUBSECTION. 7A. "Manure" means the same as defined in
16 section 455B.161.

17 NEW SUBSECTION. 7B. "Manure sludge" means the solid or
18 semisolid residue produced during the treatment of manure in
19 an anaerobic lagoon.

20 Sec. 15. Section 455B.173, subsection 3, unnumbered
21 paragraph 1, Code 1995, is amended to read as follows:

22 Establish, modify, or repeal rules relating to the
23 location, construction, operation, and maintenance of disposal
24 systems and public water supply systems and specifying the
25 conditions, including the viability of a system pursuant to
26 section 455B.174, under which the director shall issue,
27 revoke, suspend, modify, or deny permits for the operation,
28 installation, construction, addition to, or modification of
29 any disposal system or public water supply system, or for the
30 discharge of any pollutant ~~or-for-the-disposal-of-water-wastes~~
31 ~~resulting-from-poultry-and-livestock-operations~~. The rules
32 specifying the conditions under which the director shall issue
33 permits for the construction of an electric power generating
34 facility subject to chapter 476A shall provide for issuing a
35 conditional permit upon the submission of engineering

1 descriptions, flow diagrams and schematics that qualitatively
2 and quantitatively identify effluent streams and alternative
3 disposal systems that will provide compliance with effluent
4 standards or limitations.

5 Sec. 16. Section 455B.173, Code 1995, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 12. a. Adopt, modify, or repeal rules
8 relating to the construction or operation of animal feeding
9 operations. The rules shall include, but are not limited to,
10 minimum manure control requirements, requirements for
11 obtaining permits, and departmental evaluations of animal
12 feeding operations.

13 b. A person shall be required to obtain a construction
14 permit for an animal feeding operation structure which is an
15 anaerobic lagoon, earthen manure storage basin, or egg
16 washwater lagoon. If an operation has an animal weight
17 capacity of six hundred twenty-five thousand or more pounds, a
18 person shall be required to obtain a construction permit for
19 an animal feeding operation structure which is a formed manure
20 storage structure.

21 c. The department shall collect fees for the issuance of
22 permits. The fee for a construction permit shall be fifty
23 dollars. The fees paid for the issuance of construction
24 permits shall be deposited in the manure storage indemnity
25 fund created in section 204.2. The department shall issue a
26 permit for the construction of an animal feeding operation, if
27 an application is submitted according to procedures required
28 by the department, and the application meets standards
29 established by the department.

30 d. A permit shall not be issued to any person for the
31 construction of a confinement feeding operation, unless the
32 person develops a manure management plan as provided in
33 section 455B.204. The department shall not issue a permit to
34 a person under this subsection if the department has begun an
35 enforcement action which is not resolved, relating to an

1 alleged violation of this chapter concerning a confinement
2 feeding operation in which the person has an interest.

3 Sec. 17. Section 455B.191, Code 1995, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 7. Moneys assessed and collected in civil
6 penalties imposed pursuant to this section on a person
7 required to obtain a permit for the construction of a
8 confinement feeding operation shall be deposited in the manure
9 storage indemnity fund as created in section 204.2.

10 CONFINEMENT FEEDING OPERATIONS

11 Sec. 18. NEW SECTION. 455B.202 MANURE MANAGEMENT PLAN
12 CERTIFICATION -- TRAINING PROGRAM.

13 1. The department shall establish and administer a program
14 to certify that persons have been trained to carry out the
15 terms and conditions of a manure management plan as provided
16 in section 455B.204.

17 2. The person must complete not more than four hours of
18 training in the administration of the terms and conditions of
19 the manure management plans.

20 3. A certification shall expire five years following the
21 date that the person was last certified. In order to be
22 recertified, the person must complete not more than four
23 additional hours of training as provided in this section.

24 4. The Iowa cooperative extension service at Iowa state
25 university shall develop and administer the training program
26 after consultation with the department, agricultural
27 organizations, and the state office of the natural resources
28 conservation service of the United States department of
29 agriculture. The training shall be conducted by the Iowa
30 cooperative extension service.

31 Sec. 19. NEW SECTION. 455B.203 MANURE MANAGEMENT
32 PRACTICES.

33 1. The department shall adopt rules for manure management
34 practices by persons required to obtain a permit for the
35 construction of a confinement feeding operation which shall

1 include the following:

2 a. Requirements for the submission and approval of a
3 manure management plan as provided in section 455B.204.

4 b. Manure application methods, including all of the
5 following requirements:

6 (1) Manure shall not be applied within two hundred feet of
7 water of the state, an agricultural drainage well, a sinkhole,
8 or a surface intake for an agricultural drainage system,
9 unless the application is by injection or incorporation.

10 (2) Manure shall not be applied by means of spray
11 irrigation within seven hundred fifty feet from an occupied
12 residence not owned or leased by the owner of the animal
13 feeding operation, unless otherwise agreed to by the parties.
14 The agreement shall be in writing and filed with the county
15 recorder in the county where the land is located. Manure
16 shall not be applied by use of spray irrigation equipment from
17 May 15 to September 15, unless the material being applied is
18 effluent from the second stage of a two-stage anaerobic lagoon
19 or from an open feedlot runoff catch basin, or the department
20 approves a different schedule based on a manure management
21 plan that identifies specific practices designed to
22 significantly reduce the odor potential from an irrigation
23 system.

24 (3) The application of manure on land with greater than a
25 ten percent slope shall be limited to areas where erosion is
26 adequately controlled. The department may require that the
27 application be by injection or incorporation into the soil.
28 Manure shall not be applied to frozen or snow-covered ground
29 where slopes are greater than five percent except for land
30 with adequate erosion control practices such as terraces,
31 conservation tillage, cover crops, or contoured land. Manure
32 which is spread on land that floods more than once in ten
33 years shall be injected or incorporated within twenty-four
34 hours of application. Manure shall not be applied to land
35 that floods more than once in ten years during periods when

1 the land is frozen or snow-covered.

2 c. Manure application practices, including manure
3 application rates on land based on the production of
4 designated crops and according to crop schedules. The
5 application rates shall be based on nitrogen use levels of
6 designated crops, if the land where the manure is applied does
7 not exceed soil loss limits. The department shall establish
8 manure application rates based on phosphorus use levels of
9 designated crops, and phosphorus levels in the soil if the land
10 where the manure is applied exceeds soil loss limits.

11 d. The testing and management of manure sludge contained
12 in an anaerobic lagoon. The application of manure sludge to
13 land based on the phosphorus content of the sludge, the
14 phosphorus needs of the crops, and the phosphorus levels in
15 the soil.

16 2. The department shall adopt rules based on
17 recommendations submitted by Iowa state university and the
18 division of soil conservation of the department of agriculture
19 and land stewardship.

20 Sec. 20. NEW SECTION. 455B.204 MANURE MANAGEMENT PLAN
21 REQUIREMENTS.

22 1. a. A person shall not receive a permit for the
23 construction of a confinement feeding operation as provided in
24 section 455B.173, unless the person submits and complies with
25 a manure management plan in accordance with rules which shall
26 be adopted by the department pursuant to chapter 17A. The
27 plan shall provide for the application of manure in a manner
28 that is consistent with manure management practices provided
29 in section 455B.203. The applicant may develop the plan in
30 cooperation with the extension service of agriculture and home
31 economics at Iowa state university, the natural resources
32 conservation service of the United States department of
33 agriculture, a registered engineer, or a private consultant.
34 The department shall adopt all rules required to implement
35 this section not later than six months following the effective

1 date of this Act.

2 b. A person issued a permit for the construction of a
3 confinement feeding operation before January 1, 1994, shall
4 submit a manure management plan to the department not later
5 than one year after the effective date of this Act. A person
6 issued a permit for the construction of a confinement feeding
7 operation between January 1, 1994, and the effective date of
8 this Act shall submit a manure management plan to the
9 department not later than nine months after the effective date
10 of this Act according to a schedule adopted by the department.
11 If a person required to submit a delayed plan pursuant to this
12 paragraph violates section 455B.203, the person shall be
13 required to submit the plan to the department not later than
14 one hundred twenty days following notice by the department.

15 2. Compliance with the plan shall be a continuing
16 condition of the operation.

17 3. The manure plan manager shall administer the
18 implementation of and compliance with the plan, including
19 manure sludge management. The manure plan manager shall be
20 certified within six months after the department issues a
21 permit for the confinement feeding operation. However, a
22 person is not required to obtain a certification until nine
23 months after the effective date of this Act according to a
24 schedule adopted by the department.

25 4. A manure management plan shall include, but is not
26 limited to, the following:

27 a. A legal description of the land on which the manure
28 will be applied.

29 b. The names of the owner and operator of the land on
30 which the manure will be applied.

31 c. Permission of the owner of property through whose
32 property the manure will be transported.

33 d. Calculations to determine the land area required for
34 application of manure from the confinement feeding operation
35 for the crop schedule specified in the plan.

1 e. The rate of manure application which shall be
2 consistent with the requirements of section 455B.203.

3 f. A crop schedule for land subject to application.

4 g. Manure sludge practices as required pursuant to
5 subsection 5.

6 5. A person operating a confinement feeding operation
7 which utilizes an anaerobic lagoon shall include a provision
8 for manure sludge management. The department shall adopt
9 rules for manure sludge management. The rules shall include a
10 requirement that following approval of the plan by the
11 department, the depth of sludge be measured each five years,
12 the manure sludge tested for phosphorus content, and the
13 results of the test submitted to the department. The
14 department shall determine whether the person shall be
15 required to remove the manure sludge. If applied to land, the
16 department shall determine application practices pursuant to
17 section 455B.203, subsection 1, paragraphs "c" and "d", based
18 on the information submitted by the person and standards
19 recommended by Iowa state university.

20 6. A person receiving a permit for the construction of a
21 confinement feeding operation shall maintain a current manure
22 management plan and maintain records sufficient to demonstrate
23 compliance with the manure management plan. The person shall
24 report any significant changes in the plan within fourteen
25 days to the department. To the extent allowed by the
26 department, the person may submit the changes to the extension
27 service of agriculture and home economics at Iowa state
28 university, a private consultant, or the natural resources
29 conservation service of the United States department of
30 agriculture. The department shall provide to every extent
31 possible, that the extension service, private consultant, or
32 natural resources conservation service submit the changes with
33 recommendations to the department.

34 7. The department may inspect the confinement feeding
35 operation at any time during normal working hours, and may

1 inspect records required to be maintained as part of the
2 manure management plan. The environmental protection
3 commission shall adopt rules providing for limited
4 circumstances which require that the records be filed with the
5 department.

6 Sec. 21. NEW SECTION. 455B.205 DISTANCE REQUIREMENTS.

7 1. An animal feeding operation structure shall be located
8 at least two hundred feet away from the surface intake of an
9 agricultural drainage well, or a lake, river, or stream
10 located within the territorial limits of the state, any
11 marginal river area adjacent to the state, which can support a
12 floating vessel capable of carrying one or more persons during
13 a total of a six-month period in one out of ten years,
14 excluding periods of flooding.

15 2. All distances between locations or objects shall be
16 measured from their closest points, as provided by rule
17 adopted by the department.

18 Sec. 22. CONSULTATION WITH INTERESTED ORGANIZATIONS. The
19 department of natural resources shall request that the Iowa
20 pork producers association, the Iowa cattlemen's association,
21 the Iowa poultry association, the Iowa dairy association, Iowa
22 state university, and the natural resources conservation
23 service of the United States department of agriculture each
24 appoint one member to consult with the department regarding
25 this Act, rules adopted pursuant to this Act, and the Act's
26 implementation. If the natural resources conservation service
27 refuses to consult with the department, the department shall
28 consult with a person designated by the soil conservation
29 division of the department of agriculture and land
30 stewardship. The department shall consult with
31 representatives in meetings which shall be conducted by the
32 department at least once each three months. The department
33 shall request that the representatives provide the department
34 with recommendations regarding the adoption of rules required
35 to administer this Act. This section is repealed on March 31,

1 1997.

2 DIVISION II

3 Sec. 23. NEW SECTION. 425B.1 PRODUCTION TAX CREDIT FUND.

4 The production tax credit fund is created in the office of
5 the treasurer of state. There shall be appropriated annually
6 from the general fund of the state to the fund ten million
7 dollars. Any balance in the fund on June 30 shall revert to
8 the general fund of the state.

9 Sec. 24. NEW SECTION. 425B.2 DEFINITIONS.

10 As used in this chapter:

11 1. "Production facility" means only the physical structure
12 and equipment within the structure that is used to house
13 livestock or poultry. "Production facility" does not include
14 granaries, silos, grain augers, if outside the physical
15 structure, machine sheds, and similar items. If part of the
16 production facility is also used for other purposes, such as
17 storage of farm implements, the amount of property taxes
18 eligible for the credit must be prorated.

19 2. "Value added" means:

20 a. In the case of purchased livestock or poultry sold to a
21 processor or to a person who will add further value, the
22 difference between the amount received upon sale and the
23 purchase price.

24 b. In the case of livestock or poultry raised from birth
25 or hatching, as the case may be, the amount received upon the
26 sale to a processor or to a person who will add further value
27 less any breeding fees paid.

28 c. In the case of the sale of milk or eggs, the amount
29 received upon sale.

30 Sec. 25. NEW SECTION. 425B.3 CLAIM FOR CREDIT.

31 1. To apply for the credit, a person or business
32 enterprise shall each year prior to October 1 deliver to the
33 county assessor a verified statement of the value added to
34 livestock or poultry during the previous calendar year and
35 designation of the production facilities for which the credit

1 is claimed. The assessor shall return the statement and
2 designation on or before November 1 of each year to the county
3 board of supervisors with a recommendation for allowance or
4 disallowance.

5 2. The county board of supervisors in each county shall
6 examine all claims delivered by the county assessor, and shall
7 either allow or disallow the claims, and if disallowed shall
8 send notice of disallowance by regular mail to the claimant at
9 the claimant's last known address. The claimant may appeal
10 the decision of the board to the district court in the county
11 in which the production facility for which the credit is
12 claimed is situated, by giving written notice of the appeal to
13 the county board of supervisors within twenty days from the
14 date of the mailing of the notice of the decision of the board
15 of supervisors.

16 Sec. 26. NEW SECTION. 425B.4 AMOUNT OF CREDIT.

17 The amount of the production tax credit is equal to one
18 percent of the value added in the previous calendar year not
19 to exceed two thousand five hundred dollars per producer. The
20 county auditor and the assessor shall determine that the
21 credit does not exceed the amount of property taxes levied on
22 the production facilities. If part of the production facility
23 is also used for other purposes, such as storage of farm
24 implements, the amount of property taxes eligible for the
25 credit must be prorated. The auditor shall on or before
26 January 1, certify the total amount of credits to the
27 department of revenue and finance.

28 Sec. 27. NEW SECTION. 425B.5 WARRANTS DRAWN BY DIRECTOR
29 -- PRORATION.

30 After receiving from the county auditors the certifications
31 provided for in section 425B.4, and during the following
32 fiscal year, the director of revenue and finance shall draw
33 warrants on the production facility tax credit fund created in
34 section 425B.1, payable to the county treasurers in the amount
35 certified by the county auditors of the respective counties

1 and mail the warrants to the county auditors on March 1 of
2 each year taking into consideration the relative budget and
3 cash position of the state resources. However, if the
4 production facility tax credit fund is insufficient to pay in
5 full the total of the amounts certified to the director of
6 revenue and finance, the director shall prorate the fund to
7 the county treasurers and shall notify the county auditors of
8 the pro rata percentage on or before March 1.

9 Sec. 28. NEW SECTION. 425B.6 APPORTIONMENT BY AUDITOR.

10 Upon receiving the pro rata percentage from the director of
11 revenue and finance, the county auditor shall determine the
12 amount to be credited to each production facility, and shall
13 enter upon tax lists as a credit against the tax levied on
14 each production facility on which there has been made an
15 allowance of credit before delivering the tax lists to the
16 county treasurer. Upon receipt of the director's warrant by
17 the county auditor, the auditor shall deliver the warrant to
18 the county treasurer for apportionment. The county treasurer
19 shall show on each tax receipt the amount of tax credit for
20 each production facility. In case of change of ownership the
21 credit shall follow the title.

22 Sec. 29. NEW SECTION. 425B.7 LIMIT OF CREDIT.

23 A person or business enterprise in the state shall not be
24 allowed a production tax credit in excess of two thousand five
25 hundred dollars. If the person or business enterprise owns
26 production facilities located in more than one county, the
27 person or business enterprise may claim the entire credit in
28 one county or a proportionate part of the maximum credit in
29 each county where the production facilities are located.
30 However, the person or business enterprise shall not claim
31 more than two thousand five hundred dollars in production
32 credit in all counties.

33 Sec. 30. NEW SECTION. 425B.8 JOINTLY OWNED PROPERTY --
34 DIVISION OF CREDIT.

35 If production facilities are owned separately by a husband

1 and wife, they may divide the credit among themselves or one
2 spouse may take the entire credit, but in no case may a
3 husband and wife together receive a total credit of more than
4 two thousand five hundred dollars unless husband and wife own
5 farm units separately. If production facilities are owned by
6 separate business enterprises and the business enterprises are
7 controlled or owned by the same person, the separate business
8 enterprises may divide the credit amount themselves or one
9 business enterprise may take the entire credit, but in no case
10 may separate business enterprises which are controlled or
11 owned by the same person receive a total credit of more than
12 two thousand five hundred dollars.

13 Business enterprises are controlled or owned by the same
14 person if over fifty percent of the assets or shares of stock
15 in each business enterprise is controlled or owned by the same
16 person or if the business enterprises are in fact controlled
17 and managed by the same person regardless of how actual title
18 to the assets or shares of stock are held.

19 Sec. 31. NEW SECTION. 425B.9 FALSE CLAIM -- PENALTY.

20 A person making a false claim or affidavit with fraudulent
21 intent to obtain the credit under section 425B.3, is guilty of
22 a fraudulent practice and the claim shall be disallowed in
23 full. If the credit has been paid, the amount of the credit
24 plus a penalty equal to twenty-five percent of the amount of
25 credit plus interest, at the rate in effect under section
26 421.7, from the time of payment shall be collected by the
27 county treasurer in the same manner as other property taxes,
28 penalty, and interest are collected and when collected shall
29 be paid to the director of revenue and finance.

30 EXPLANATION

31 Division I of this bill provides for the regulation of
32 animal feeding operations. It amends section 172D.2 which
33 provides for a defense against nuisance actions relating to
34 feedlot operations. The bill provides specific instances
35 where nuisance protection is granted.

1 The bill establishes a manure storage indemnity fund.
2 Moneys in the fund are appropriated to and for the purposes of
3 indemnifying a county for expenses related to removing and
4 disposing of manure from a manure storage structure, and to
5 pay the administrative costs of the department. The
6 department of agriculture and land stewardship controls the
7 fund and administers the program. The fund is composed of a
8 confinement feeding operation construction fee paid before a
9 construction permit is issued by the department of natural
10 resources. If the moneys of the fund less the department's
11 estimate of the costs to the fund for pending or unsettled
12 claims exceeds \$300,000, then the excess is deposited in the
13 organic nutrient management fund. The bill provides for the
14 collection of the fees. The bill provides that a county that
15 has acquired real estate containing a manure storage structure
16 following nonpayment of taxes may make a claim against the
17 fund to pay the costs of removing and disposing of the manure
18 located in a manure storage structure on the real estate. The
19 department must determine if a claim is eligible, and either
20 pay the fixed amount specified in the bid submitted by the
21 county upon completion of the work or obtain a lower fixed
22 amount bid for the work from another qualified person, other
23 than a governmental entity, and pay the fixed amount in this
24 bid upon completion of the work. The department is not
25 required to comply with certain established bidding
26 procedures. Upon a determination that the claim is eligible
27 for payment, the department must provide for payment of 100
28 percent of the claim. If at any time the department
29 determines that there are insufficient moneys to make payment
30 of all claims, the department may order that payment be
31 deferred on specified claims.

32 The bill rewrites and reorganizes existing provisions
33 relating to distance requirements that must exist between
34 anaerobic lagoons or earthen manure storage basins and
35 residences and public use areas. The bill provides a number

1 of new distance requirements which are applicable to animal
2 feeding operations, anaerobic lagoons, earthen manure storage
3 basins, formed manure storage structures, confinement
4 buildings, and egg washwater storage structures. The bill
5 limits the expansion of an animal feeding operation, if the
6 operation was constructed or expanded prior to the effective
7 date of the bill.

8 The bill provides that the department may adopt rules
9 relating to the construction or operation of animal feeding
10 operations. The rules must include, but are not limited to,
11 minimum manure control requirements, requirements for
12 obtaining permits, and departmental evaluations of animal
13 feeding operations. The bill requires that a person cannot
14 obtain a permit for the construction of a confinement feeding
15 operation, unless the person develops a manure management
16 plan.

17 The bill provides that the department is required to
18 establish and administer a program to certify that persons are
19 manure plan managers qualified to apply manure as required
20 under the plan. In order to become certified, the person must
21 receive not more than four hours of training. A certification
22 expires five years following the date that the person was last
23 certified. In order to be recertified, the person must
24 complete four additional hours of training. The bill requires
25 Iowa state university to develop and administer the training
26 program.

27 The bill requires the department to adopt rules relating to
28 manure application practices by persons required to obtain a
29 permit for the construction of confinement feeding operations.
30 The department must adopt rules based on recommendations
31 submitted by Iowa state university and the department of
32 agriculture and land stewardship.

33 The bill provides for manure management plans. A person
34 cannot receive a permit for the construction of a confinement
35 feeding operation unless the person develops and complies with

1 a manure management plan as provided by rules which shall be
2 adopted by the department. The plan shall provide for the
3 application of manure in a manner that is consistent with
4 manure management practices required in the bill. The bill
5 provides for delayed implementation of the requirement.

6 The bill provides that a person operating a confinement
7 feeding operation which utilizes an anaerobic lagoon must
8 provide for manure sludge management as part of the plan. The
9 bill provides that a person required to maintain the plan must
10 keep records sufficient to demonstrate compliance with the
11 manure management plan. The person must submit changes in the
12 plan to the department of natural resources.

13 Division II of this bill provides for a property tax credit
14 for production facilities for the production of meat, milk,
15 and eggs of 1 percent of the value added up to a maximum
16 credit of \$2,500 per producer.

17 This bill provides for an appropriation from the state
18 general fund of \$10 million per fiscal year. Any fund balance
19 on June 30 reverts to the state general fund. If the amount
20 appropriated is insufficient to pay the total credits claimed,
21 the director of revenue and finance shall prorate the fund to
22 the county treasurers.

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